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EXAMINER

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ART UNIT

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 14

Application Number: 09/788,428
Filing Date: February 21, 2001
Appellant(s): HARITA ET AL.

MAILED

AUG 11 2003

GROUP 3600

James E. Barlow
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/7/03.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The appellant's statement in the brief that certain claims do not stand or fall together is not agreed with because the claims are not separately patentable. The different claims merely have some additional limitations but do not disclose a separate invention. Furthermore, all the claims are rejected upon the same basis and the same references. The examiner sees no reason why the claims should be treated separately.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

| | | |
|-----------|--------|---------|
| 5,360,274 | Strobl | 11-1994 |
| 3,239,287 | Rose | 3-1966 |

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 2-5,7,8, and 11-15 are rejected under 35 U.S.C. 103. This rejection is set forth in prior Office Action, Paper No. 7.

(11) Response to Argument

Regarding claims 2 and 7, Appellant argues that the fingers of Rose do not allow for relative movement after the fixing surfaces come into contact. This is incorrect. Rose discloses that the fingers lock the surfaces in a releasable manner (see column 4 line 2). Therefore, the surfaces may be adjusted after the surfaces come into contact. Furthermore, Claim 2 reads that "fixing surfaces are fixed to each other to inhibit the relative and radial movement." That is until the surfaces are fixed to each other they allow relative and radial movement. The same is true of the surfaces of Rose. When the two surfaces are not "fixed" to each other, then they can move relative to each other. Additionally, the fingers of Rose are part of one of the fixing surface just as the projections are part of one of the fixing surface in the instant invention. Therefore, if the fingers are touching the opposite surface but have not snapped into place and therefore been "fixed", adjustment is possible.

Regarding claims 3 and 8, Appellant argues that the fingers of Rose do not move once the fixing surfaces come into contact with each other. As Examiner has stated earlier, the fingers of Rose are part of one of the fixing surfaces. Note claims 3 reads, "one of the fixing surfaces is provided with at least a projection". It is clear that the fingers of Rose can move within the apertures on the other surface (as admitted to by the applicant) and since the fingers must be considered part of one of the fixing surfaces (as evidence by claim 3), then it becomes clear that Strobl in view of Rose reads upon the claims.

Regarding claim 11, Appellant states it should be a separate group than claims 2 and 7 but does not provide any new arguments. The Examiner disagrees with the arguments made by Appellant on the same grounds as stated above in regard to Claims 2 and 7, and for the sake of brevity will not repeat them.

Regarding claim 12, Appellant states it should be its own separate group but merely repeats the arguments made in regard to claims 3 and 8. Furthermore, Claim 12 repeats the same limitations present in Claims 3 and 8 but in method claim form. The Examiner disagrees with the arguments made by Appellant on the same grounds as stated above in regard to Claims 3 and 8, and for the sake of brevity will not repeat them.

Regarding claim 13, Appellant states it should be its own separate group but claim 13 presents only limitations present in claim 3 and 8. The Examiner disagrees with the arguments made by Appellant on the same grounds as stated above in regard to Claims 3 and 8, and for the sake of brevity will not repeat them.

Art Unit: 3683

The Examiner believes that the broader interpretation of the claims that he has used is reasonable. The Examiner feels that the Appellant's interpretation is unduly narrow especially considering the relative brevity of the claims.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

Robert A. Siconolfi
Examiner
Art Unit 3683

RS
August 6, 2003

Conferees
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